App. F. IX-4.

VI

1926.

File No. 15-18

Previous references. (Legis)

Legis 21-1910 (1-7).

Serial Nos. 1—4

Later references.

Legis 15-18 (5-8)

Ch 69-32-1-4

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Four.

Part B for October 1925

SUBJECT

Amendment of Section 13 of the Mysore Inoculation Regulation. (R.A subject note of 1917)

Further action taken in Legis file

15-18 Sl. No 5-8

Ramaswamy Iyengar.
20/11/26

GENERAL AND REVENUE SECRETARIAT.

(~~Edn~~)
Legis.

NOTES.

File No. 15-18

FILE HEADING.

Amendment of section 13 of the ~~Courts~~ Mysore Guardians Regn (R.A. 64 of Oct: 17)

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

15-18
2

1. SUBJECT No. 64.

Amendment of the Insolvency Regulation.

Mr. C. Narasimhaiya, Heggaddevankote taluk.

Summary of discussion.—Under the old Civil Procedure Code, a judgment-debtor who was arrested and kept in Civil Jail could be released by the executing court on presenting or offering to present an application for insolvency (sections 344 to 360, old Civil Procedure Code). Under the new Code, the sections relating to insolvency were removed and incorporated in the Insolvency Regulation. The present Civil Procedure Code provides for the release of the judgment-debtor by the executing court before he is sent to civil jail but is silent about release after he is sent to jail, though he might actually have filed an application for insolvency. In the Insolvency Regulation also there is no provision for the release of a judgment-debtor who is in civil jail even after the insolvency application is filed. This omission of a provision found in the old code is a real hardship and the amendment of the Insolvency Regulation so as to remove this hardship is necessary.

GEN. & REV. SECRETARIAT III JUDICIAL 7-FEB 1918

Reply of Government.—Will be considered.

---

2. The Opinion of the Judges of the Chief Court is noted Below.

Chief Judge. There seems to be something in this. O 21. 40 provides for the case of release order before detention and Section 13 of the Insolvency Regulation seems to contemplate only cases where the debtor is at liberty at the time of making the order.

Probably the amendment may be best effected by an alteration of O 21.40. on the lines of the old Code, so that a judgment-debtor brought up under arrest may, on satisfying the Court that he has or is about to petition the Insolvency Court, get a release order. If the Govt will refer the question for the opinion of the Chief Court we will get the views of Civil Judges and others and if necessary, ~~of the~~ ask the Rule Committee to frame an amendment to the Code. As at present advised, I think that will be better than making any provision for release after imprisonment but I am open to consider other proposal

Paramasiva Iyer. J. I agree.

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat.

~~Ex.~~ File No. ~~168~~ of 1917.

Serial No.	
	3 Subd for orders, with a draft letter Registrar, Chief Court.
	Ann 19/2 Hll.
	4. Issue [illegible]
1	To The Registrar Chief Court No 3441 22nd Feb. 1918 Wales for opinion of the Chief Court in the matter of the amendment of the Insolvency Regulation.
2	from the Registrar, Chief Court. Dr R O C. 776/17 78 Dated 1/5 8 18 [illegible]
	5. Subd. for perusal. may this be transferred to Legis. section?
	8/8. [illegible] 8/8
	6. Yes [illegible]
	7. Subd with a draft Bill to amend "the Mysore Insolvency Regulation, 191
	MVR 10-8-18. [illegible] 10/8/18 Subd.
	As personally directed the newspapers were searched for any

NOTE—Contn. sheet.

Serial No.

criticism on Mr A. J. Cirgenvan's ~~on the~~ report on the law relating to debt, ~~—~~ and the 'Madras Mail' issue of the 16th May 1918 containing one such criticism is put up. The Residency has been requested to get for use of the Durbar. 3 ~~cop~~ copies of Cirgenvan's report and the copies has not been received yet.* Meanwhile a Bill to amend the Provincial Insolvency Act, 1907, has been introduced into the Imperial Legis. Council and the Bill is published in the Gazette of India (Part-V) dated 7/9/18 herewith put up. ~~It is a point for~~ This Bill deals with a number of amendments found necessary, but does not amend sec: 13 in the way it is proposed to be done here. It is however a point for consideration if the passing of this Bill into Law in India may not be awaited to see if ~~X~~ Our Regn may also

Q.

P

*: Copies since received. one copy is herewith put up.

16/9

NOTE—Contn. sheet.

G. 243

G. R. S. III-2]

General and Revenue Secretariat. | Legis File No. 15 of 1918

Serial No.

be suitably amended so bring it into a line with the Pr. Indian Act

14/9/18 In the H.A, it was urged that an insolvent judgment debtor should be arrested in execution of decree and sent to jail and that under the existing law get a release order from the court till an order of adjudication is passed on his insolvency application, that the previous law was more favourable to the judgment debtor. The Chief Court were consulted in the matter who suggested an amendment of the Insolvency Regulation to meet cases of the kind contemplated by the member.

(10) under the existing law, when a debtor is arrested and brought before the Court, the Court shall inform him that he may apply to be declared an insolvent (S. 53(3) Civil Pro code); and where he expresses his intention to so apply, and furnishes Security that he will do so within one month, and that he will appear when called upon, the Court shall release him from arrest. (S 53 (4))

(11) under S. 6(3) (6) of the Insolvency Regulation a debtor who has been arrested in execution of decree may present an insolvency petition however small may be the amount of his

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-3-19—S.

G. R. S. III-2)

General and Revenue Secretariat. | Legis File No. 15 of 1918.

Serial No.

debts. If the debtor ~~is unable to~~ does not avail himself of the opportunity of (is unable to) furnish the security required, he may present a petition from the jail in which he is confined and on such application an order of adjudication, he will be released.

(2) The point is that some months may elapse between the date of presentation of the petition and the date of the order of adjudication, and the suggestion is that power must be vested in the Court to release him even prior to the order of adjudication.

(3) The law on this point is the same here as in British India, and from the letter of the Chief Court it would seem that such cases will be few and far between. Further our Civil Procedure Code and Insolvency Regulations are practically word for word and clause for clause as those in British India, and in regard to such general laws, it is always desirable to have uniformity. The Provincial Insolvency Act was passed nearly 10 years ago in British India, and as many defects have been pointed out in the practical working of the Act, it is proposed to amend the whole Act, and a Bill is already before the Legislative Council of the Govt. of India. It will be necessary to amend our law so as to bring it into conformity with that Act. The present amendment may,

NOTE—Contn. sheet.

WJ 1233—GPB—60,000—1,12-16—S.

2437

13

G. R. S. III-2

General and Revenue Secretariat. | Legis File No. 15 of 1918.

Serial No.

if approved, be considered along with the general amendments which may be taken up when the Bill is passed in the Imperial Legislative Council. There is also one other point which may be considered before taking up the amendment, viz. a debtor does not apply to be declared an insolvent, and is unable to furnish security, the state, he need not be sent to jail. Under Order XXI Rule 40 (3) he may be kept in the custody of an officer of the Court instead of being sent to the jail. The period of custody may be regulated by an additional rule and then another opportunity may be given to the debtor to file an insolvency petition or furnish the security required. Therefore in that case there is no necessity to amend the Regulation and the amendment to the Rules may be made by the Rules Committee.

Submitted for orders

20/06/22.11

18/4

First Member

14) Yes. I think the proposed amendment may await the passing of the Bill which is said to be soon before the Imperial Legislature.

15) As regards the other point referred to above by the Ld. Member, he may be requested to move in the matter.

22/11/18

NOTE—Contn. sheet.

2457

8 15

G. R. S. III-2]

General and Revenue Secretariat. | Legis File No. 15 of 1918.

Serial No.

16) Subd with a draft to the Registrar of the Chief Court

MVR 4.12.18

17) In favour of approval

2334 17/12/18

First Member

18) Draft approved

Reed 16.12.18

3 To the Registrar Chief Court

No 12157 dt 21-12-18

Statement it is proposed as an alternative that a rule may be added to XX/rule 603 of C.P.C and requests to favour first with the opinion of the Chief

19) About three ordinary reminders have been sent in the matter so far & no reply is yet received.

Subd with a draft letter calling for an early reply

ASR 24/5

20)

280460 17.6.25

After the issue of the draft, reference to the Gazette of India will be made by the Govt to amend the Provincial Insolvency Act

Note—Contd. sheet

WD A 1789—GPB—60,000—20-8-18—S.

9 17

General and Revenue Secretariat.

Legs File No. 15 of 191 R.

Serial No.

From The Regr. Chief Court-
R.O.C No 776 d 25-6-19

States that the question of the intermediate custody of judgment debtors has been referred to the Rule Committee & a final reply will be sent early.

Submd. for perusal. A reference has been made to the Gazette of India subsequent to the issue of the 7th Sept. 1918. The proposed amendment of the Provincial Insolvency Rules has not gone beyond the bill stage.

26/8.
Apr 1918

From

The Regr. Chief Court;
R.O.C No 776 d 1917-18 d 6/8 - 1-20

States that the Rule committee to whom the matter was referred are in favour of the amendment of the Insolvency Rules already proposed in our letter d 1st Aug. 1918 and also that they recommend the issue of a proviso to sub-rule (5) of R. 40 of O XXI of C.P.C.

P.T.O.

Please bring up if there is not up ref. enquiring when a final reply may be expected
7 Nov 1918
Draft put up m 85 30/8/19

Issued 8553 d 8-10-19.

NOTE—Contn. sheet.

G. R. S. [11-2]

General and Revenue Secretariat. | Legn. File No. 15 of 1918.

Serial No.

Sd.

94) The Rule committee have resolved that in addition to the proposed amendment of the Insolvency Regn. a proviso to O. XXI R. 40 Sub rule (5) may be inserted providing for the intermediate custody of judgment-debtors pending the passing of the order for committal.

95) In considering the question of the amendment of Insolvency Regn., the first member (Rao Bahadur Diwan) has ordered that it may be taken after the passing of the Amending Bill before the Imperial legislative council. (vide para 14 supra) In as much as the Bill has not yet been passed into law.

96) Re. the proviso to O. XXI R. 40 Sub rule (5), the file may, if approved be transferred to Courts Section for taking extracts from the

NOTE—Contn. sheet.

1917
1245

11 · 4

General and Revenue Secretariat. Legs File No. 15 of 1918

Serial No.

Papers under disposal & for Extn necessary action
Subd for orders

SG 9-1-2021

(1) But there is some reference to the Amending Bill in the newspapers of the 19th or 20th inst. Please find out & bring to my notice.

28/(2) Revision may as one be taken in the Courts Secretary about the rule proposed by the Chief Court.

D. M. 21/1

29/(1) Madras mail of 12-1-20 contains the reference required in portuguese

SG 22-1-20

30) Please bring up in proper time

Extracts taken for working out Separation (Please vide Ch 20 D-5)

9/2/1921

Legs 5/2/21

Shown to the Hon. Finance Member upon his passing the Separation Bill.

CBH

NOTE—Contn. sheet.

13095.

19 -19

SECTION

SUBJECT No. 54.

Repeal of the Insolvency Regulation.

Messrs. Padmanna, Chandrasekhariah and K. Venkatasamiah, Nanjangud Taluk.

Mr. A. Venkatasamiah.—There is considerable difference between the old and the new Insolvency Regulation. The old Regulation was better, but the new Regulation has been passed without the opinions of the Bar Associations and of the Judges being obtained, and we have to make the best of it. I shall give a list of the points in which modification is necessary. Action may be taken to have the regulation modified. The best thing would be to revive the old regulation. If that was not possible, the new one may be modified.

Mr. C. S. Doraswami Iyer.—Where is there anything like the old Regulation?

Mr. Venkatasamiah.—I mean the portion of the Civil Procedure Code relating to this matter.

Mr. C. Subba Rao.—The Regulation makes no provision for the appointment of an Official Receiver.

R.A.

Mr. C. S. Doraswami Iyer.—Government are aware of the defects and amendments to the Regulation are under consideration. If members forward their suggestions, Government will consider them all in that connection.

31/1 Subd. If approved, this will be placed in the file re: Amendments of the Insolvency Regn. which is pending the passing of the amending Bill in the Imperial Legislature of India

31/1 Mr S. Committees' reports about which the Assembly C.

(23) Spo

D. 9/1

Le 9/1

3095

19 -19

SECTION

122.

SUBJECT No. 54.

Repeal of the Insolvency Regulation.

Messrs. Padmanna, Chandrasekhariah and K. Venkatasamiah, Nanjangud Taluk.

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R.A.

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31/1 Subd. If approved, this will be placed in the file re: Amendment of the Insolvency Regn. which is pending the passing of the amending Bill in the Imperial Legislature of India

31/1 31/1 Mr S. Committees' report is about to be presented after the next meeting of the Legl. C.

93 Spo

D. 9/1

Lr 9/1

General and Revenue Secretariat. | Leg. File No. 15 of 1918.

Serial No.

debtors from civil jail on their filing an application for insolvency. The Chief Court have recently issued a proviso to Sub-Rule 5 of Rule 40 of order XXI to the Schedule I of the Civil Pro. Code giving mutatis provision for the intermediate custody of judgment debtors thus giving them an opportunity to satisfy the Decree. They have also recommended in their letter

H.M.

H.S. of 5th August 1918 the amendment of the Regn. to meet the difficulty contemplated in the representation of the R. & members. ~~[illegible]~~

~~For orders.~~

86/286) S. 23 of the Act V of 1920 ordering provides for the release of debtors before adjudications while admitting the insolvence petition.

For orders.

86/27/7

NOTE—Contn. sheet.

G. R. S. III-21

General and Revenue Secretariat.

Legs File No. 15 of 1918.

13095 16 31

Serial No.

(9) Reference is invited to para 13 supra in which the question of amending the Regulation the general amendment of the Insolvency Regulation was proposed and to para 14 containing the orders of the Member thereon.

(10) If approved, six copies of the Indian Act V of 1920 will be got and a draft Bill amending and Regn put up on the lines of the said Act.

Apr 30/7

(11) Yes. Please put up as suitable draft Bill early. The draft Bill after approval may be sent to the Chief Court for the opinion of the Judges.

Dm. 7/8

The file may be sent to the Library for taking action as per para 11 supra.

Sec 7/8

To the Library for favour of necessary action and returning

Asm 7/8

Action taken separately.

CL 9-8-20

Please move of them as above. D.M.

* The Gazette copy may be noted now D.M.

Legs 7/8

Rec'd. 6th '16

NOTE—Contn. sheet.

General and Revenue Secretariat.

Legs File No. 15 of 1918.

Serial No.

Draft. Draft bill has been prepared by making the necessary modifications in the British Indian Act of 1920.

The differences between the said British Indian Act of 1907 and our Regulation of 1914 is kept up for the reasons stated at page 15 of the printed collection of Legs file 21-910.

Then clause 3 sub-clause (2) has been omitted.

In clause 6 the words "petitioning creditor" have been used for the word "petitioner".

Clause 28 sub clause (3) has been omitted.

Sub clause (2) of clause 60 has been omitted.

The words "certain or contingent" in sub-clause 2 of clause 34 have been omitted.

In clause 53, the words "oral" are inserted after the word "before" in line 2

H.2

NOTE—Contn. sheet.

General and Revenue Secretariat. | Legs. File No. 15 of 19 47.

Serial No.	
	Sub-clause (3) of clause 75 has been omitted -
	Clause 72 has been omitted
	clauses 81 & 82 are enclosed for orders
	8/2/47

1 191 ✓

1 20 3-1

File No. 168-7

Serial No. 1 ✓

Diary No. of letter replied to J. 1826

No. J 3471

General and Revenue Secretariat

To The Registrar, Chief Court

Date of issue 22/12/17

Signed by W. G. Srinivasa

Sir,

I am directed to invite your attention to subject No. 64 of the Proceedings of the Representative Assembly of 1917 (Dacca Session) and the reply of Government thereto in the matter of the amendment of the Insolvency Regulation

and to request you to be so good as to favour Govt. with ~~the opinion of the Chief Court~~ ~~your opinion~~ in the matter at an early date.

List of enclosures

Drafted by A.M. 1917

Copied by

Examined by

I have, etc.,

For Secretary to Govt.

GPB—500—7 11-11

CHIEF COURT OF MYSORE.

R.O.C.No. 776/1917-18. BANGALORE.

Dated 1st August 1918.

11017

From

N.T. GOPALIENGAR, Esquire, B.A., L.L.B.,
Registrar of the Chief Court of Mysore.

To

C.S. BALASUNDARAM IYER, Esquire, B.A.,
Chief Secretary to the Government of Mysore
Bangalore.

S i r,

Adverting to your letter No. J. 3471, dated the 22nd February 1918, calling for the opinion of this court on Subject No. 64 of the Proceedings of the Representative Assembly of 1917 (Dassara session) and the reply of the Government thereto in the matter of the amendment of the Insolvency Regulation, I am directed to state that the difficulty of the representatives seems to be in respect of the repeal of section 349 of the old Code of Civil Procedure, and the case they put is of a man arrested by the executing court and sent to jail, and then applying for insolvency.

Section 55(4) of the new Code of Civil Procedure allows the executing court to refrain from ordering his detention if he offers to apply to be adjudicated an insolvent, and this meets most cases because if he takes advantage of it he will not be in custody when he applies to be adjudicated. But the Judges agree with the

representatives

1917

File No. 168-17

Serial No. 1

Diary No. of letter replied to J. 1826.

No. J 3471

General and Revenue Secretariat

To The Registrar, Chief Court

Sir,

Date of issue 22/12/17

Signed by W. G. Srinivasa

I am directed to invite your attention to subject No. 64 of the Proceedings of the Representative Assembly of 1917 (Dasara Session) and the reply of Government thereto in the matter of the amendment of the Insolvency Regulation

and to request you to be so good as to favour Govt. with the opinion of the Chief Court ~~your opinion~~ in the matter at an early date.

List of enclosures

Drafted by AM 1917

Copied by

Examined by

I have, etc.,

Chief

For *Secretary to Govt.*

GPB—500—7 11-11

representatives in thinking that the case contemplated by them may arise. It may be only after he has been in jail a month or two that the judgment-debtor realises that he cannot pay his other creditors and he may then apply for adjudication, but cannot obtain release before the adjudication order. At that stage the execution court has nothing to do with the matter and the insolvency petition puts the matter in the hands of the Insolvency Court. The difficulty will then, the Judges think, be best met as the representatives suggest, by an amendment of the Insolvency Regulation.

After obtaining the views of the Judges of the inferior courts and of the several Law Associations in the matter, the Judges are of opinion that the amendment might be made by substituting the word 'party' for 'creditor' in section 13 of the Insolvency Regulation, and adding the following as (1)a after (1) of the said section :-

> "When the debtor is detained in the civil prison by an order made under section 55 of the Code of Civil Procedure, direct that he be released on giving reasonable security for his appearance until final orders are made on the petition."

It seems necessary to make it clear that the detention with which the Insolvency Court is entitled to interfere is detention in execution of a decree only. A man may be in detention under an arrest before judgment, or as a punishment for disobedience to an injunction, and

an application under the Insolvency Regulation ought not to enable the Insolvency Court to interfere in matters of that kind. Hence in the amendment proposed the power is limited to cases of detention under an order made under section 55 of the Code..

I have the honour to be,

Sir,

Your most obedient servant,

REGISTRAR.

N.G.

18/12

5

41

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section Legis
File No. 15-18
Serial No. 3

GENERAL AND REVENUE SECRETARIAT,
( )
, *the* 191

No. 6215

Date of issue 27.12.18

To

Signed by [illegible]

The Registrar of the Chief Court of Rangoon

Sir

With refce to your Letter d. 1st August 1918 no R.O.C no 776/1917-18, forwarding the opinion of the Chief Court in the matter of the amendment of Sec 13 of the Insolvency Regn, I am directed to state that it is proposed as an alternative that a rule may be added to O XXI, Rule 40 (3) ~~O 21, R 40 (3)~~ of C. P. C, regulating the period of custody so that a

over.

further opportunity may be given to the judgment-debtor to file an Insolvency ~~Petition~~ Petition or to furnish the Security required.

I am to request you to be so good as to favour Govt with the opinion of the Chief Court on the proposal at an early date.

It is also suggested that in order to regulate the practice of interim orders in ~~similar~~ such matters the Hon'ble the Judges of the High Court ~~should be~~ may be requested to add a proviso to Order XXI Rule clause 2 of the Code authorising such interim orders for a period not exceeding 6 days.

Rees
16.12.15

I have the

honour to be

Sir

Your most obedient servant

for Chief Secretary to Govt

MVR
6-12-18

List of enclosure

Copied by

Examined by

WD 86—GPB—60,000—15-11-15

12459 49

19 -19
SECTION Legis
CHIEF COURT OF MYSORE
FILE No. 15-1
SERIAL 4

R.O.C. No: 776 of 1917-18. Bangalore, Dated 3rd January 1920.

From

G. Sreenivasa Iyer Esq., B.A., L.L.,
Registrar of the Chief Court of Lysore,
B a n g a l o r e.

To

C. S. Balasundaram Iyer Esq., B. A.,
Chief Secretary to the Government of Mysore,
B A N G A L O R E.

S i r,

PROTECT 5 JAN 1920

Adverting to your letter No: G. 12157/Leg: 15-16-3 dated the 21st December 1917 requesting the opinion of the Chief Court in the matter of adding a rule to O. XXI, Rule 40 (3) Civil Procedure Code to regulate the period of custody of judgment-debtors, as an alternative to the proposal of this Court contained in this office letter No: R.O.C 776 of 1917-18 dated the 1/5th August 1918, to amend section 13 of the Insolvency Regulation, I am directed to state that the matter was referred to the Rule Committee and they have unanimously resolved that the Insolvency Regulation should be amended as already proposed by this court in this office No: R.O.C. 776 dated 1/5th August 1918 and that in addition the following proviso as in Madras, to O. XXI R. 40 sub rule (5) should be added:-

To Group IV

"Provided that, in order to give the judgment-debtor an opportunity of satisfying the decree, the court before making the order of committal may leave the judgment-debtor in the custody of an officer of the court for a specified

period

period not exceeding ten days, or release him on his furnishing security to the satisfaction of the court for his appearance at the expiration of the specified period if the decree be not sooner satisfied".

The Judges fully agree with the resolution of the Rule Committee and I am therefore to request that the Government may be pleased to accord their sanction for the addition of the proviso.

The draft amendment is duly published in the Mysore Gazette dated 4th December 1919 at page 919, Part IV and no objections or suggestions are received.

I have the honour to be,

S i r,

Your most obedient servant,

REGISTRAR.

SG

22309

9/2583

BRITISH IMPERIAL COUNCIL OF COMMERCE

Mysore Chamber of Commerce

POST BOX NO. 39

No 280.

Bangalore 11th November 1922.

From

B. K. Garudachar, Esq.,

Chairman, the Mysore Chamber of Commerce, Bangalore.

To

The General Secretary to the Government of

His Highness the Maharaja of Mysore, Bangalore

Sir,

I am desired by the Committee of the Chamber to propose to Government that legislation be early introduced for the passing of a new consolidated Insolvency Act in the --- State on lines similar to the British Indian Provincial --- Insolvency Act of 1920. The latter Act has proved to be a valuable improvement on the older one (Act III of 1907) and the passing of a similar measure in the State is much to be desired.

I have the honour to be,

Sir,

Your most obedient servant,

Chairman.

Subject. The amendment of the Insolvency Regn. on the lines of the British Indian Act of 1920 has been taken up & the file with the draft Bill is with the Asst. Secy.

Please this Bill